

MEMORANDUM

May 19, 2005

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: MARK WEINSTEIN
Veatch, Carlson, Grogan, and Nelson

ROGER H. GRANBO
Principal Deputy County Counsel
General Litigation Division

RE: Joseph and David B. v. County of Los Angeles
Los Angeles Superior Court Case No. BC 271803

DATE OF
INCIDENT: February 21, 2001

AUTHORITY
REQUESTED: \$65,000


COUNTY
DEPARTMENT: Department of Children and Family Services


CLAIMS BOARD ACTION:

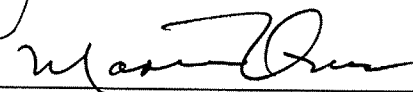
☒ Approve

☐ Disapprove

☐ Recommend to Board of
Supervisors for Approval


_____, Chief Administrative Office
ROCKY A. ARMFIELD


_____, County Counsel
JOHN F. KRATTLI


_____, Auditor-Controller
MARIA M. OMS

on June 6, 2005

SUMMARY

This is a recommendation to settle for \$65,000, a lawsuit filed by Joseph and David B., who were injured in the home of their father while under the supervision of the Department of Children and Family Services ("DCFS"). Our attorneys were successful in obtaining a summary judgment for the County in the trial court, and the matter is now on appeal

LEGAL PRINCIPLES

A public entity and its employees that supervise dependent children of the Juvenile Court may be held liable for injuries to those children, if the employees fail to discharge a duty that is mandated by a statute, the statute is intended to protect against the kind of risk of injury suffered by the child, and the breach of the mandatory duty is a proximate cause of the injury.

SUMMARY OF FACTS

Joseph and David B. became dependent children of the Juvenile Court as a result of physical abuse by their mother. In May 2000, against the recommendation of DCFS, Joseph and David were placed in the home of their father in Riverside County. DCFS continued to supervise the family until December 2000 when the case was to be transferred to Riverside County for supervision.

By mistake, the Court transferred the case to San Bernardino County. San Bernardino County sent it back to Los Angeles County in February 2001. Because DCFS believed that the case had been transferred to Riverside County, and that Los Angeles County did not have jurisdiction over the family, DCFS did not make a visit to the family in January 2001. DCFS did, however, make a visit in February 2001 when it learned that the case was transferred back to Los Angeles County.

On February 21, 2001, about a week after the last DCFS visit, Joseph and David were severely burned in a fire in their home. After the fire, several items of drug paraphernalia, including matches and lighters, were found in the home. The cause of the fire was undetermined.

Joseph was burned over 80 percent of his body, and David was burned over approximately 10 percent of his body. They are alleging that DCFS was negligent in supervising them in their father's home.

DAMAGES

Should this matter proceed to trial, we estimate the potential damages could be as follows:

Joseph B.'s medical expenses	\$ 509,000
Joseph B.'s future medical expenses	\$ 100,000
Joseph B.'s emotional distress	\$ 1,000,000
David B.'s medical expenses	\$ 20,000
David B.'s emotional distress	<u>\$ 500,000</u>
Total	<u>\$ 2,129,000</u>

The settlement calls for the County to pay \$65,000 to Joseph and David B. for all of their claims for damages, costs, and attorney fees.

STATUS OF CASE

We were successful in obtaining a summary judgment in the trial court, and the matter is now on appeal.


Expenses incurred by the County in defense of this matter are attorney fees of \$108,424 and \$25,039 in costs.

EVALUATION

This is a case of questionable liability. DCFS fulfilled all of its mandatory duties with respect to the supervision of the family, and the case was dismissed by the trial court. While DCFS missed a visit in January 2001, that missed visit in no way contributed to the injuries. Even though we believe that the judgment for the County would likely be affirmed on appeal, the severity of the injuries to Joseph and David warrant a reasonable settlement, which is far less than a jury might award should the matter survive the appeal and proceed to trial.

We join with our third-party administrator, Carl Warren and Company, and our private counsel, Veatch, Carlson, Grogan, and Nelson in recommending a settlement of this matter in the amount of \$65,000. The Department of Children and Family Services concurs in this settlement recommendation.

APPROVED:



GARY N. MILLER
Assistant County Counsel
General Litigation Division

GNM:scr